

July 6, 2006

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Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: MB Docket No. 03-15
Redwood Empire Public Television, Inc.
KEET-DT, Eureka, CA (Facility ID No. 55435)
Request for Waiver of the Replication/Maximization Interference Protection Deadline

Dear Ms. Dortch:

Redwood Empire Public Television, Inc., permittee of digital television station KEET-DT, Eureka, CA ("KEET" or the "Station"), hereby requests a waiver of the "use-it-or-lose-it" replication/maximization procedures established by the Federal Communication Commission ("Commission") in the *Second Report and Order* in MB Docket No. 03-15¹ and amplified in the *Public Notice* released on June 14, 2006² ("Maximization Requirements").

On April 9, 2001, the Commission approved KEET's construction of Channel 11 as the digital companion to KEET's analog Channel 13, with digital replication facilities of 40 kW ERP and an antenna height of 515 meters height above average terrain.³ KEET timely constructed its digital facilities on Channel 11, including construction of a new transmitter tower, and commenced digital operations with reduced power pursuant to special temporary authorization ("STA") issued by the Commission in 2003. KEET continues to operate its digital facilities with reduced power, but is committed to reaching full power status and broadcasting to its entire service area as soon as possible. As explained more fully herein, however, KEET cannot upgrade its present digital transmitter to satisfy the Maximization

¹ *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, Report and Order, 19 FCC Rcd. 18,279 (Sep. 7, 2004) ("*Second Report and Order*").

² Public Notice, *DTV Channel Election Issues – Compliance with the July 1, 2006 Replication/Maximization Interference Protection Deadline; Stations Seeking Extension of the Deadline*, MM Dkt No. 03-15, DA 06-1255 (June 14, 2006) ("*Public Notice*").

³ See FCC File No. BPEDT-20000424AAB.

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Requirements by the deadline of July 7, 2006,⁴ due to severe financial constraints and circumstances beyond its control.

I. KEET HAS AN OUTSTANDING RECORD OF PUBLIC SERVICE TO ITS RURAL AND UNDERSERVED AUDIENCE

KEET broadcast its first signal out of a downtown Eureka garage in 1969. Although it remains the fifth smallest public television station in the nation, KEET now serves 59,000 households in Humboldt and Del Norte Counties, an area that is 86 percent rural. Its signal covers approximately 4,500 square miles in Northwestern California and includes the isolated redwood coast, heavily-timbered mountains and inland valleys that are home to California's five largest Indian tribes: the Karuk, Hupa, Yurok, Wiyot and Tolowa. Rugged mountains and poor roads make both travel and television transmission difficult while also increasing the reliance of the region's 155,000 residents on KEET's broadcast. With no other station to the west, the closest public television stations are over 200 miles to the north and south and 150 miles to the east.

With an average per capita income that is two-thirds that of the state as a whole, the region has been jolted by seismic economic shifts in recent years. Eroding fish stocks and decreasing timber production have combined to undercut the region's historic economic dependence on the fishing and timber industries. The repercussions have been especially severe in Del Norte County, where per capita income is half the state average, and the inland valleys, where 14 percent are unemployed and 42.5 percent are not in the labor force.⁵ The economic problems that plague the region have fueled social problems that have touched every pocket of the community. As described below, KEET is helping to address the resulting need for education, workforce training and economic development.

KEET has a long history of working in partnership with other community institutions to develop programs that meet the needs of its rural population.

- **Distance Learning/Workforce Training.** Education is a critical issue for the isolated and economically hard-hit inland valleys where travel to the coast can be a six-hour round trip and in Del Norte County where per capita income is half the state average. Working with College of the Redwoods, Humboldt State University, Humboldt County Schools and the Annenberg Channel, KEET launched a 24/7 educational, cable-based channel in 2004. Because cable does not reach rural areas or low-income households, this is only a

⁴ See Public Notice, *DTV Channel Election Issues – Media Bureau Extends Filing Deadline for Compliance with the July 1, 2006 Replication/Maximization Interference Protection Deadline to July 7, 2006*, MM Dkt No. 03-15, DA 06-1372 (June 29, 2006) (“*Deadline Extension Public Notice*”).

⁵ U.S. Census Bureau DP-3 2000.

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stopgap solution until KEET completes its digital transition and can integrate this channel as one of four planned KEET digital broadcast streams.

- **Partnering with Native American Communities.** In Hoopa and other inland valleys, where unemployment approaches 14 percent, economic development is key and demand for distance learning high. KEET's long record of working with local tribes has made it a trusted partner in helping to preserve native culture. The Station has been nationally recognized for its Living Biographies series exploring local heritage through the eyes of native and non-native community elders. The tribes' fundraising to procure analog translators several years ago demonstrates the importance of KEET's programming to the tribes, including the Hupa tribe.
- **Emergency Broadcasting Services.** KEET has a contractual agreement with California's Office of Emergency Services to dedicate one of its digital channels to transmit emergency broadcast information during times of local, regional, state or national emergencies. This is crucial information for a region whose extensive timberlands, rugged topography, heavy rainfall and multiple major earthquake faults can be counted on to produce large forest fires, floods, landslides and road closures on a fairly regular basis.
- **Educational Programs for Youth.** Because enrichment opportunities for rural youth—like most cultural resources located in Eureka—are scarce, KEET broadcasts seven and one-half hours of PBS children's programming each weekday. In addition, KEET has worked with local partners ranging from libraries and child care providers to civil engineers to develop programs that prepare children for school, provide training for before and after-school caregivers and help youngsters explore career options.

II. KEET TIMELY CONSTRUCTED ITS DIGITAL FACILITIES BUT REQUIRES ADDITIONAL GRANT FUNDING TO UPGRADE ITS TRANSMITTER TO FULL POWER

In May 2001, KEET conducted its first capital campaign in over 30 years of operation to raise money for the conversion of the Station from analog to digital. As a result of that campaign, KEET was able to timely construct its digital facilities and commence operations in 2003, including the construction of a new transmitter building, construction of a new transmitter tower and the installation of the digital Station's antenna. These completed undertakings constitute the majority of the work necessary for the Station to upgrade to full-service digital operation. Currently, KEET has the capabilities of broadcasting two program streams: the current Channel 13 programming schedule and PBS Schedule X, the East Coast feed of PBS programs. Additionally, as described above, KEET feeds a local cable channel with an educational programming stream with content developed in partnership with

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Humboldt County Schools, the College of the Redwoods and Humboldt State University as well as the Annenberg Channel. The cost of the upgrade work was \$1,888,942, with local businesses and community members contributing \$317,120. KEET received the remainder of the funding from local and state foundations, a Digital Universal Service Fund Grant, the Public Telecommunications Facilities Program, and the State of California Department of Emergency Services.

As one of the smallest public television stations in the nation, KEET requires additional funding to complete its digital transmitter upgrade. As a qualifying noncommercial educational broadcast station under Section 396(k) of the Public Broadcasting Act of 1967, KEET has applied for a grant totaling \$967,804 from the U.S. Department of Agriculture's ("DoA") Rural Public Television Digital Transition Grant Program to complete its upgrade of KEET's current digital transmitter to full "maximized" power. This grant program provides financing to assist public television stations serving substantial rural populations in implementing the FCC's transition to digital television transmission.

KEET intends to use the DoA grant funds to upgrade its digital transmitter, as the program encourages. KEET's current transmitter is operating under STA at one-half of the authorized power. The upgrade will involve the insertion of additional modules to fully populate the transmitter cabinet. Also included in the transmission package are dummy loads to allow for full power testing, a GPS locked reference to improve transmitter stability and allow for future boosters, and a proof of performance following completion of the transmitter upgrade. Additionally, the upgrade to full power will allow KEET to provide a reliable signal to the translators funded in KEET's previous Rural Public Television Digital Grant; KEET's present low power operation does not provide adequate signal to these translator sites. Funding is also requested for equipment to convert KEET's analog master control facility into a serial digital facility. Finally, the grant will allow KEET to expand its present daytime multicast programming with additional instructional, children's and cultural programming and to add the PBS high definition programming feed to its evening hours digital signal.

Although KEET has been diligent in its efforts to fund the upgrade, its efforts to fulfill the Maximization Requirements, unfortunately, have not coincided with the Commission's deadline of July 7, 2006. Until the DoA releases funds to KEET, the Station will not be able to complete its upgrade. Despite KEET's timely application for digital transition grant funds, it now is apparent that DoA will not release the funds in time for KEET to complete its upgrade by the July 7th deadline. While KEET may have been able to complete its upgrade on time if it had received funding closer to May 15, 2006 (when the DoA's application filing window closed), KEET would not be able to complete its upgrade by the current deadline even if it received the funding immediately. The deadline simply is too close. KEET has identified other public television grant programs for which it qualifies, but these programs have not yet begun accepting applications and also will be unable to fund

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the upgrade in time for KEET to meet the deadline. While KEET remains confident that it will obtain the funding it needs to upgrade its facility and reach full power in the near future, it will be unable to satisfy the requirements before July 7, 2006. Accordingly, KEET requests that the Commission approve this request for a waiver of the deadline for the Maximization Requirement.

This waiver request satisfies the standards that the Commission established in the *Second Report and Order* and amplified in the *Public Notice*. In the *Second Report and Order*, the Commission adopted a July 1, 2006, replication/maximization interference protection deadline for all DTV Licensees not subject to the July 1, 2005, deadline.⁶ As noted above, the Commission extended this deadline to July 7, 2006, by a Public Notice dated June 29, 2006.⁷ The Commission stated that in circumstances in which a station is unable to meet the applicable deadline due to “circumstances beyond the station’s control,” it would “grant extensions of the applicable replication or maximization interference protection deadline on a six-month basis if good cause is shown.”⁸ To receive a waiver, broadcasters are required to make a showing “similar to that required to obtain a waiver of the DTV construction deadlines.”⁹

As discussed above, KEET has diligently pursued the construction of its full-power digital facilities and has been broadcasting from its digital facilities for nearly three years, but the DoA’s timing with regard to release of program grants needed to complete KEET’s digital upgrade is a circumstance beyond the Station’s control. Until KEET receives additional grant funds, however, it will be unable to complete its upgrade of its digital facilities.

In the *Public Notice*, the Commission recognized that certain stations, although unable to reach one hundred percent maximization or replication, would nevertheless be able to come close to meeting the applicable coverage requirements. The Commission requested that licensees of such stations submit the following information in conjunction with any request for waiver of the Maximization Requirement deadline: “(1) how close to full replication/maximization the station will be as of the deadline; (2) the reason the station is unable to fully comply; (3) the cost to the station and the impact on viewers if the station

⁶ See *Second Report and Order*, *supra* n.1, ¶¶ 3, 26.

⁷ See *Deadline Extension Public Notice*, *supra* n.3.

⁸ See *Second Report and Order*, *supra* n.1, ¶ 29;

⁹ See *Second Report and Order*, *supra* n.1, ¶ 87; *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, Fifth Report and Order, 12 FCC Rcd at 12841, ¶ 77 (1997); *Commission’s Rules and Policies Affecting the Conversion to Digital Television*, First DTV Periodic Mem. Opin. & Order, 16 FCC Rcd at 20611-12, ¶¶ 46-47 (2001) (financial condition that precludes expenditures for equipment necessary to meet the minimum build-out requirements is an adequate basis for a waiver of the DTV construction deadlines).

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were required to fully comply; (4) whether the station will be able to modify its operation to fully comply after analog operation terminates (*e.g.* relocate their DTV antenna to the top of the tower); and (5) any other relevant factors.”

KEET addresses these specific factors as follows:

(1) KEET currently is operating on Channel 11 under STA at one-half of its authorized power. KEET is committed to maximizing its full power operations and anticipates reaching full power in the shortest feasible period after receipt of funding from the DoA or other grant source.

(2) KEET is unable to comply with the Maximization Requirements by the July 7th deadline because it is a small public television station with very limited financial resources. Because KEET does not possess the financial resources to complete its upgrade to full power, it has applied for funding from a DoA program specifically designed to assist public television stations in their transition from analog to digital transmission. Because the DoA has not provided KEET with the DTV-transition grant that the Station needs to complete its upgrade, KEET is unable to comply with the Maximization Requirements by July 7, 2006.

(3) The cost to the Station to fully comply with the Maximization Requirements is prohibitive given the very small size and extremely limited financial resources of KEET. If KEET were forced to comply with the Maximization Requirements by July 7 (which, given the timing would be technically infeasible), the impact on viewers would be dramatic because the Station would need to significantly cut costs in other areas, including programming and other public service initiatives. If forced to maximize its digital service at this time, it is unlikely that KEET would be able to continue operations because it would not be able to afford to broadcast any programming or pay its staff.

(4) KEET will be able to complete modification of its operation to fully comply with the Maximization Requirement well before analog operation terminates. As noted, KEET has completed the majority of the work necessary with the construction of a new transmitter building, construction of a new transmitter tower and the installation of the antenna. KEET has applied for and is waiting for grant funds to upgrade its present digital transmitter to full maximized power as presently authorized by the FCC. KEET anticipates that once it receives funding from the DoA or other grant source, it will be able to modify its operation to fully comply with the Maximization Requirement within approximately six months.

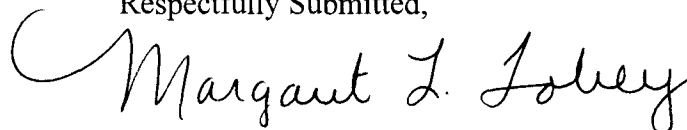
(5) For more than 35 years, KEET has provided the only public television signal available to the north coast of California. KEET also serves the five largest indigenous tribes within California: the Karuk, Hupa, Yurok, Wiyot and Tolowa. The closest public television stations are located in Rohnert Park, 210 miles to the

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South; Redding, 150 miles to the East, and Medford, Oregon, 220 miles to the North. This isolation places a great responsibility on KEET—that of providing quality instructional, cultural and informational programming for which public broadcasting is renowned. Grant of this waiver request will ensure that KEET will be able to continue to provide valuable and badly needed services as a public television station to these underserved areas and audiences.

For the forgoing reasons, KEET requests that the Commission grant its request for a waiver of the July 7, 2006, deadline for satisfying the Maximization Requirements. Questions or correspondence concerning this matter should be directed to the undersigned.

Respectfully Submitted,

A handwritten signature in black ink, reading "Margaret L. Tobey". The signature is written in a cursive style with a large, looping initial "M".

Margaret L. Tobey
William C. Beckwith

cc: Shaun Maher (by e-mail)